

JS-6

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

**CIVIL MINUTES - GENERAL**

Case No. CV 08-05990 MMM (JWJ<sub>x</sub>)

Date July 16, 2009

Title *Philip H. Yu and Rosa Yu v. Federal Deposit Insurance Corporation*

Present: The Honorable MARGARET M. MORROW

ANEL HUERTA

N/A

Deputy Clerk

Court Reporter

Attorneys Present for Plaintiff :

Attorneys Present for Defendant :

None

None

**Proceedings: Order Dismissing Action**

On May 6, 2009, defendant Federal Deposit Insurance Corporation (“FDIC”) filed a motion to dismiss this action for improper service or, in the alternative, for an order directing *pro se* plaintiffs Philip H. and Rosa Yu to effect proper service by a date certain. On June 17, 2009, the court granted the FDIC’s motion in part.<sup>1</sup> The court explained the procedures governing service of process set forth in Rule 4(i) of the Federal Rules of Civil Procedure, and noted the deficiencies in plaintiffs’ prior efforts to serve defendant.<sup>2</sup>

The court directed the Yus to “(1) personally service the United States Attorney for the district in which the action is brought [U.S. Attorney Thomas P. O’Brien, United States Attorney’s Office, Central District of California, 1200 U.S. Courthouse, 312 North Spring Street, Los Angeles, CA 90012] or send a copy of the summons and complaint by registered or certified mail to the civil-process clerk at the United States Attorney’s office [Civil Process Clerk, United States Attorney’s Office, Central District of California – Civil Division, Federal Building, Suite 7516, 300 North Los Angeles Street, Los Angeles, CA 90012]; and (2) send a copy of the summons and complaint by registered or certified mail to the Attorney General in Washington, D.C. [Attorney General Eric

<sup>1</sup>See Order Granting FDIC’s Motion for Proper Service By a Date Certain (“Service Order”), Docket No. 19 (June 17, 2009).

<sup>2</sup>Service Order at 4-5 (“There is no evidence that the Yus have served any of the parties identified above as required by Rule 4(i)”).

Holder, United States Department of Justice, 950 Pennsylvania Avenue, N.W., Washington, D.C. 20530]; and (3) send a copy of the summons and complaint by registered or certified mail to the agency defendant [FDIC c/o Robert E. Feldman, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429].”<sup>3</sup>

The court stated that, under Rule 4(m), the Yus had 120 days from the date they filed their complaint in mid-September 2008 to effect service. As that time period had already expired, the court exercised its discretion to grant the Yus an extension of time to complete proper service. It directed them to do so no later than Monday, July 13, 2009.<sup>4</sup>

To date, the Yus have not filed a proof of service indicating that they have complied with Rule 4(i). In its June order, the court warned the Yus that noncompliance would lead to dismissal without further notice. Despite this warning, the Yus have not effected service on defendant. Accordingly, the court dismisses the action without prejudice for failure to effect timely service under Rule 4.

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<sup>3</sup>*Id.* at 4 and nn.8-11.

<sup>4</sup>*Id.* at 5.